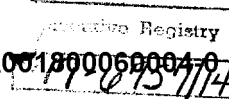


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DPET

OLC #77-5085

NATIONAL FOREIGN INTELLIGENCE BOARD

20 MAY 1977

Pro legs  
NIA

MEMORANDUM FOR NFIB PRINCIPALS

FROM :

[Redacted]

Vice Chairman

SSCI

77-0481/9

Complete Package  
Pro legs NIA

SUBJECT: Definitions in SSCI "National Intelligence Act of 1977"

1. References are the attached letter of 17 May 1977 from Senator Walter D. Huddleston, Chairman of the Subcommittee on Charters and Guidelines, Senate Select Committee on Intelligence, and its enclosed 9 May draft of the "National Intelligence Act of 1977," which is the draft Title 1 of what the SSCI plans to propose as the "National Intelligence Reorganization and Reform Act of 1977."

2. Senator Huddleston has requested comments on the definitions contained in Section 103 of the draft act. The listing includes definitions of:

- Intelligence Community
- Intelligence activities
- National intelligence
- National intelligence activity
- Departmental intelligence
- Departmental intelligence activity
- Tactical intelligence
- Tactical intelligence activity
- Intelligence related activity
- Counterintelligence activity
- Special activity
- Sensitive clandestine collection project
- Exceptionally sensitive clandestine collection project
- National of the United States
- Terrorist activity
- Sabotage

3. It is requested that you provide me prior to close of business Wednesday, 25 May:

a. Any comments on or proposed changes to the definitions contained in the draft act;

b. Any suggested terms, and accompanying definitions, which you consider should be added to the list;

c. Any terms presently on the list that you consider should be deleted.

4. My action officer on this project is [redacted]

[redacted] If you have questions, he can be reached by telephone at [redacted]

Attachments:  
as stated

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	UNCLASSIFIED		CONFIDENTIAL		SECRET
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# EXECUTIVE SECRETARIAT

## Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI		X		
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC	X			
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	A/DCI/PA				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20					
21					
22					
SUSPENSE		25 May 1977 Date			

**Remarks:** To 10: Please effect necessary coordination and clear CIA response with DDCI. Note deadline of "prior to COB Wednesday, 25 May."

Note: X Cover Memo only to DDCI.

D/ Executive Secretary

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## United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

May 17, 1977

IN RESPONSE  
REFER TO: R7215

Deputy to the DCI for the  
Intelligence Community  
Washington, D. C. 20505

Dear [REDACTED]

SSCI

77-0481/10

Complete Package  
Pro legs NIA

On Friday in a meeting with the Senate Select Committee on Intelligence, the President endorsed the notion of legislative charters for the nation's intelligence activities. As part of the drafting process for legislative charters, the Subcommittee on Charters and Guidelines of the Senate Select Committee on Intelligence is attempting to draw up standardized definitions of intelligence activities. In addition to this effort the Select Committee is required by S. Res. 400 of the 94th Congress, 2nd Session, to study the development of a uniform set of definitions and report on that study to the Senate by July 1 of this year.

I am enclosing a copy of the most recent draft of The National Intelligence Act of 1977. This draft includes a series of definitions. I would very much appreciate it if you would provide me, as soon as possible, with any comments which the agencies of the Intelligence Community have on these definitions. If we are able to standardize definitions, I believe we will have made a great step forward in the process of developing a statutory base for the vital intelligence activities of the United States.

Very truly yours,

Walter D. Huddleston  
Chairman, Subcommittee on  
Charters and Guidelines

Enclosure

K-1820

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5/9/77

IN THE SENATE OF THE UNITED STATES

Mr. \_\_\_\_\_

introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

**A BILL**

To improve the national intelligence system of the United States by the establishment of a statutory basis for the national intelligence activities of the United States, and for other purposes.

(Insert title of bill here)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Intelligence Reorganization and Reform Act of 1977".

TITLE I--NATIONAL INTELLIGENCE

SHORT TITLE

Sec. 101. This title may be cited as the "National Intelligence Act of 1977".

STATEMENT OF PURPOSES

Sec. 102. It is the purpose of this Act--

(1) to insure that all intelligence activities of the United States are properly and effectively directed, regulated, coordinated, and administered;

(2) to provide for the appointment of a Director of National Intelligence, assign and clearly describe his responsibilities, confer on him the authority necessary to fulfill those responsibilities, and to make him, and through him the entities of the Intelligence Community, accountable

to the President, the Congress, and the people of the United States;

(3) to provide the executive and legislative branches of the Government with such accurate, relevant, and timely information and analysis as may be necessary to enable such branches to make sound and informed decisions regarding the security and vital interests of the United States and to protect the United States against foreign intelligence activities, terrorism, and other forms of hostile action directed against the United States, and against international narcotics traffic; and

(4) to insure that the intelligence activities of the United States do not infringe upon or violate those individual rights protected by the Constitution or laws of the United States.

#### DEFINITIONS

Sec. 103. As used in this title--

(1) The term "Intelligence Community" means the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the Special Offices for Reconnaissance Activities, and their successors and such other entities of the Federal Government to the extent that such entities engage in national intelligence activities as determined by the President, including but not limited to--

(A) the intelligence elements of the military services,

(B) the Intelligence Division of the Federal Bureau of Investigation,

(C) the Bureau of Intelligence and Research of the Department of State,

(D) the intelligence components of the Department of the Treasury,

(E) the intelligence components of the Energy Research and Development Administration,

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(F) the intelligence components of the Drug Enforcement Administration.

(2) The term "intelligence activities" means--

(A) the collection, processing, file retention, analysis, estimation, production, communication or dissemination of information which relates to any foreign country, or any foreign government, political group, party, military force, movement or other association of persons, or on individuals in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and all activities which are in support of any such collection, processing, file retention, analysis, estimation, production, communication, dissemination, or use of information;

(B) any counterintelligence activity;

(C) any special activity.

(3) The term "national intelligence" means information or analysis relating to the national defense, the national security, or the foreign policy of the United States which is used primarily by policymakers involved in the formulation and direction of national policy particularly foreign policy and national security policy. Such term does not include information or analysis which is used primarily by department or agency heads or operational commanders of the armed forces of the United States and which has little or no significant national policy-making purpose.

(4) The term "national intelligence activity" means any activity conducted by entities of the Intelligence Community of the United States, the primary purpose of which is to product national intelligence. Such term includes any activity of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the Special Offices for Reconnaissance Activities, and their successors, and any activity of any other entity of the

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Federal Government as is designated by the President to be a national intelligence activity.

(5) The term "departmental intelligence" means information or analysis which is used primarily by department or agency heads and which has little or no significant national policymaking purpose.

(6) The term "departmental intelligence activity" means any intelligence activity the primary purpose of which is to product departmental intelligence. Such term does not include special activities, counterintelligence activities, sensitive or exceptionally sensitive clandestine collection projects.

(7) The term "tactical intelligence" means that information or analysis required by the operating forces of the military services to maintain their readiness for combat operations and to support the planning and conduct of operations under combat conditions.

(8) The term "tactical intelligence activity" means any activity that is integral to the military force structure, the primary purpose of which is to provide tactical intelligence directly to the operational commander who requires it. Such term does not include any program which is so closely integrated with a weapon system that its primary function is to provide targeting data for immediate use directly to such weapon.

(9) The term "intelligence related activity" means any activity which (A) is conducted in response to an operational commander's requirements for time-sensitive information on foreign entities, (B) has as its primary mission the support of the operating forces of the United States, but which also provides important national intelligence, (C) is conducted for the purpose of training personnel for intelligence duties, or (D) is devoted to research and development of intelligence capabilities. Such term does not include any program which is so closely integrated with a weapon system that its primary

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function is to provide targeting data for immediate use directly to such weapon.

(10) The term "counterintelligence activity" means any intelligence activity relating to terrorism or foreign intelligence or security services, their officers or agents, their clandestine intelligence activities including espionage, their counterintelligence activities, and other forms of hostile action which they may undertake against the United States including sabotage and covert action; any measures by the United States to counter such activities; and any related support activity by the United States.

(11) The term "special activity" means any intelligence activity other than a counterintelligence activity and the collection, correlation, production, and dissemination of information or analysis and related support activity which is (A) designed to further United States programs and policies abroad, (B) planned and executed so that the role of the United States Government is not apparent or publicly acknowledged, and (C) authorized by the President and implemented by an entity of the Intelligence Community of the United States pursuant to the provisions of this title.

(12) The term "sensitive clandestine collection project" means any secret intelligence collection activity which if discovered or revealed would be likely to cause serious damage to the United States.

(13) The term "exceptionally sensitive clandestine collection project" means any secret intelligence collection activity which if discovered or revealed would be likely to cause exceptionally grave damage to the United States.

(14) The term "national of the United States" means (A) a citizen of the United States, or (B) a person, though not a citizen of the United States, who owes permanent allegiance to the United States.

(15) The term "Attorney General" means the Attorney

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General of the United States.

(16) The term "continuing resolution" means a joint resolution of the Congress appropriating funds for one or more departments or agencies of the government for a temporary period of time pending the enactment of the regular appropriation Act or Acts for such departments or agencies.

(17) The term "committees of the Congress" means any committee of the Senate or the House of Representatives or any joint committee of the Congress.

(18) The terms "departments and agencies" and "department or agency" mean any department, agency, bureau, independent establishment, wholly owned corporation, or other entity of the Government of the United States.

(19) The term "terrorist activity" means any activity which--

(A) is violent or dangerous to human life;

(B) violates a Federal or State criminal statute, or if such activity has been or will be conducted outside the United States, would be criminal under the laws of the United States or any state if committed within its jurisdiction; and

(C) appears intended--

(i) to intimidate or coerce the civilian population, or

(ii) to influence the policy of a government by intimidation or coercion.

(20) The term "sabotage" means activities prohibited by Title 18, United States Code, Chapter 105.

#### NATIONAL INTELLIGENCE ACTIVITIES; AUTHORIZATION

Sec. 104. (a) The entities of the Intelligence Community are authorized to engage in national intelligence activities subject to the direction and control of the National Security Council.

(b) It shall be the function of the entities of the Intelligence Community, subject to the provisions of this Act, to collect,

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process, analyze, and disseminate, to the executive and legislative branches of the government, accurate, relevant, and timely information, analysis and estimates. It shall also be the function of the entities of the Intelligence Community to engage in special activities, subject to the provisions of section 112 of this title and in counterintelligence activities, subject to the provisions of this Act. No national intelligence activity directed against nationals of the United States may be undertaken by any entity of the Intelligence Community except pursuant to the provisions of Title II of this Act.

#### DIRECTOR AND DEPUTY DIRECTOR

Sec. 105. (a) There shall be a Director of National Intelligence (hereinafter in this title referred to as the "Director"). There shall also be a Deputy Director of National Intelligence to assist the Director in carrying out his functions under this Act and to act in the place of the Director during the absence or disability of the Director.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, and each shall serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve in the two positions for more than a total of twelve years. At no time shall the two positions of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status.

(c)(1) If a commissioned officer of the armed forces is appointed as Director or Deputy Director, then--

(A) in the performance of his duties as Director or Deputy Director, he shall be subject to no supervision,

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control, restriction, or prohibition (military or otherwise) other than would be applicable if he were a civilian in no way connected with the Department of Defense, the military departments, or the armed forces of the United States or any component thereof; and

(B) such officer shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the Department of Defense, the military departments, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this section the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and his acceptance of service in such an office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and shall be compensated, from funds appropriated to the Director, at the rate established for such position.

(3) The grade of any such commissioned officer shall, during any period such officer occupies the office of Director or Deputy Director, be in addition to the numbers authorized by law for such grade for the military department of which such officer is a member.

(4) The Director shall be entitled to the same compensation prescribed by section 5312 of title 5, United States Code, for positions at level I of the Executive Schedule. If a commissioned officer of the armed forces is serving as the Director, he shall be entitled to the difference, if any, between his regular

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military compensation (as defined in section 101(25) of title 37, United States Code) and the compensation prescribed by section 5312 of title 5, United States Code, for positions at level I of the Executive Schedule.

(5) The Deputy Director shall be entitled to the same compensation prescribed by section 5313 of title 5, United States Code, for positions at level II of the Executive Schedule. If a commissioned officer of the armed forces is serving as the Deputy Director, he shall be entitled to the difference, if any, between his regular military compensation (as defined in section 101 (25) of title 37, United States Code) and the compensation prescribed by section 5313 of title 5, United States Code, for positions at level II of the Executive Schedule.

#### AUTHORITY AND DUTIES OF THE DIRECTOR

Sec. 106. (a) The Director, under the direction and control of the National Security Council, shall be responsible for the national intelligence activities of the United States. The President shall determine annually, with the guidance and assistance of the National Security Council and the Director, which intelligence activities, if any, in addition to those specifically defined as national intelligence activities under this Act, shall constitute national intelligence activities for which the Director shall be responsible. The President shall report annually to the appropriate committees of the Congress on this determination.

(b) The Director shall, on an annual basis, review all national intelligence activities, all departmental or tactical intelligence activities and all intelligence-related activities of the United States in order to make recommendations to the President, the National Security Council, and the appropriate committees of Congress regarding the most effective relationships among the intelligence activities and the intelligence-related activities of the United States and whether any departmental or tactical intelligence activity or any intelligence-related activity should be determined by the President, pursuant to subsection (a) of this section, to be a national intelligence activity.

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(c) The Director shall, on a continuing basis, review all ongoing and proposed intelligence activities of the United States including all national intelligence activities, all tactical or departmental intelligence activities, and all intelligence-related activities in order to assure that the intelligence activities of the United States are properly and effectively directed, regulated, coordinated and administered; that such activities provide the executive and legislative branches of the government with the information and analysis that such branches need to fulfill their responsibilities under the Constitution and laws of the United States; that such activities safeguard, and do not abridge, any right guaranteed or protected by the Constitution or laws of the United States; that such activities do not adversely affect the national security, national defense or foreign relations of the United States; and that such activities are conducted in conformance with the provisions of this Act and the Constitution and laws of the United States. To achieve these ends the Director shall direct such changes in national intelligence activities as he deems appropriate and shall make such recommendations to the President, the National Security Council, the heads of departments or agencies, and the appropriate committees of the Congress as he deems appropriate.

(d) The Director shall also--

(1) serve as the President's primary advisor on matters relating to national intelligence and provide the President, other officials of the executive branch of the government, and the Congress, with accurate, relevant, and timely information and analysis;

(2) keep the President and the committees of the Congress having jurisdiction over matters relating to national intelligence activities fully and currently informed of all national intelligence activities of the United States which are the responsibility of or are engaged in by any entity of the Intelligence Community or any agent of any such entity, including any significant anticipated national intelligence

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activity, and any intelligence activity carried out for or on behalf of the United States by or through any foreign government or by any agent of any foreign government; but the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such anticipated national intelligence activity;

(3) coordinate the national intelligence activities of the United States and provide such guidance and direction to the head of each entity of the Intelligence Community as may be necessary to insure that the intelligence activities of such entity are (A) effectively and efficiently managed, and (B) conducted in conformity with the Constitution and laws of the United States;

(4) control the budget activities of all entities of the Intelligence Community, including but not limited to--

(A) the preparation of an annual budget for all national intelligence activities of the United States for presentation to the President; and

(B) the review and approval or disapproval of any proposed reprogramming by, or any transfer of funds to or from, any entity of the Intelligence Community.

(5) establish requirements, develop plans, and assign priorities for all national intelligence activities of the United States, taking into account the need for the intelligence components of departments and agencies of the Government which engage in national intelligence activities to also perform departmental and tactical intelligence activities assigned by the heads of such departments and agencies;

(6) evaluate ongoing and proposed intelligence activities to insure the efficient use of intelligence resources and the fulfillment of national intelligence requirements established pursuant to clause (5);

(7) establish procedures, in coordination with the heads of departments and agencies not within the Intelligence

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Community, to increase insofar as is possible the national intelligence contribution made by such entities without contravening their assigned missions and authorities;

(8) establish procedures to increase, insofar as is possible consistent with national intelligence requirements established under clause (5) of this subsection, the collection, processing, analysis and dissemination to departments and agencies of tactical and departmental intelligence by the entities of the Intelligence Community;

(9) receive, correlate, analyze, and evaluate all national intelligence and be responsible for the production of all national intelligence, taking into account the need to insure that diverse points of view and disagreements are considered and identified;

(10) produce estimates for the President and the Congress;

(11) supervise the dissemination of national intelligence to the executive and legislative branches of the government and furnish to the departments and agencies and to appropriate operational commanders of the armed forces of the United States the national, tactical, and departmental intelligence relevant to their missions and authorities which is produced by the entities of the Intelligence Community;

(12) evaluate on a continuing basis the needs of the various components of the executive and legislative branches of the government for national intelligence and evaluate the quality, accuracy, timeliness, and relevance of the national intelligence that is disseminated to such components;

(13) establish and implement, consistent with the provisions of this title, procedures for the continuing review of ongoing and proposed national intelligence activities of the United States based on the risk and likely impact of the disclosure of the activities on the national security, national defense, or foreign relations of the United States or on the rights guaranteed or protected by the Constitution and laws of

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the United States; provide for the effective monitoring and evaluation of the execution of such procedures; and provide copies of such procedures to the appropriate committees of the Congress;

(14) coordinate all clandestine collection of intelligence including human sources;

(15) under the guidance of the Counterintelligence Committee (established pursuant to Section 113 of this title) coordinate the counterintelligence activities of the United States.

(16) provide guidance to the entities of the Intelligence Community which collect, process, analyze and disseminate information on international narcotics traffic;

(17) be responsible for all relationships between the various entities of the Intelligence Community and the foreign intelligence or internal security services of foreign governments, including all agreements, arrangements, and understandings governing such relationships; but no entity of the Intelligence Community shall knowingly pay, cause, or encourage any foreign government or any agent of any foreign government to engage in any activity which such entity of the Intelligence Community of the United States is prohibited from engaging in;

(18) submit all agreements, arrangements, and understandings described in clause (17) to the appropriate committees of Congress for review as required by law;

(19) assign to a single entity of the Intelligence Community responsibility for any service which is of common concern to more than one such entity and which can be more effectively performed by one such entity;

(20) develop security standards for the management and handling of information and material relating to intelligence activities, for the granting of access to such information and material, and for entering into such security agreements as are necessary for the protection of such

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information and material; but the head of each entity of the Intelligence Community shall be responsible for the implementation of such standards and for the protection from unauthorized disclosure of properly classified information and material in the custody of such entity;

(21) be responsible for (A) the establishment of security standards, priorities, and practices for the protection of United States communications, (B) monitoring the implementation of such standards, priorities, and practices by the departments and agencies of the Government and contractor facilities concerned, and (C) taking all reasonable steps recommended by the Attorney General to protect the privacy of such communications;

(22) establish, in consultation with the Attorney General, procedures for the retention, disclosure, and dissemination of information acquired by the various entities of the Intelligence Community; but no such information may be retained, disclosed, or disseminated if it violates any right guaranteed or protected by the Constitution or laws of the United States;

(23) formulate, in consultation with the Secretary of Defense, plans providing for use by the Secretary of Defense of such elements of the Intelligence Community of the United States as may be required in time of war, such plans to include provision for such support, in time of war, from the Secretary of Defense as may be required to assure the continuity of essential national intelligence activities;

(24) terminate the employment of any officer or employee of the Central Intelligence Agency, the National Security Agency, or the Special Offices for Reconnaissance, upon the recommendation of the head of the appropriate entity, whenever the Director considers such termination necessary or advisable in the interests of the United States, notwithstanding any other provision of law, but such termination shall not affect the right of such officer or employee to seek or accept

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employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission;

(25) review the reports of the Inspectors General of the various entities of the Intelligence Community;

(26) provide the committees of the Congress having jurisdiction over matters relating to national intelligence activities with such information relating to the entities of the Intelligence Community and the Office of the Director as such committees may request; and

(27) provide such administrative, technical, and support activities in the United States and abroad as may be necessary to carry out effectively and efficiently the duties of the Director and the various entities of the Intelligence Community.

(e) In order to carry out his duties under this section, the Director is authorized to obtain from the various entities of the Intelligence Community such information as he deems necessary to perform such duties.

(f) Nothing in this section shall be construed to prohibit any entity of the Intelligence Community from producing and disseminating its own analyses of national intelligence, but any such analyses shall be promptly provided to the Director.

#### DEPARTMENTAL RESPONSIBILITY FOR REPORTING NATIONAL INTELLIGENCE

Sec. 107. It shall be the responsibility of the heads of departments and agencies of the government and all operational commanders of the armed forces of the United States to insure that all national intelligence obtained by such departments and agencies and operational commands of the armed forces of the United States is promptly furnished to the Director or to the entity of the Intelligence Community designated by the Director to receive such intelligence. Nothing in this title shall be construed to prohibit any department or agency of the Government from collecting, processing, evaluating, and disseminating departmental or tactical

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intelligence if such department or agency is otherwise authorized to do so.

ASSISTANT DIRECTORS; STAFF; COMMITTEES AND BOARDS

Sec. 108. (a) The President is authorized to appoint, by and with the advice and consent of the Senate, not more than four Assistant Directors of National Intelligence.

(b) The Director is authorized to employ such personnel as may be necessary to assist in carrying out his responsibilities as Director. Such staff may include, but shall not be limited to, persons employed by any entity of the Intelligence Community.

(c) The Director is also authorized to establish such committees or boards, composed of officers and employees of the United States, as may be necessary to carry out effectively the provisions of this title, including, but not limited to, committees or boards of intelligence collectors, producers, and consumers.

(d) The Director is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this title. The provisions of the Federal Advisory Committee Act (86 Stat. 770) shall apply with respect to any advisory committee established by the Director under authority of this section except that the Director may, with the approval of the President, waive the application of any or all of the provisions of such Act when the Director deems such action necessary to the successful performance of the duties of any entity of the Intelligence Community or to protect the security of the activities of any such entity. Any waiver exercised by the Director under this section shall be reported to the committees of the Congress having jurisdiction over matters relating to national intelligence activities and the names of all persons appointed to serve on such advisory committee shall be reported to such committees of the Congress.

REPORT OF VIOLATIONS

Sec. 109. (a) The Director shall report to the Attorney General and the Intelligence Oversight Board (established pursuant to Section 118 of this title) immediately upon the discovery

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of any intelligence activity which may constitute a violation of any right guaranteed or protected by the Constitution or laws of the United States, or which may constitute a violation of any law, executive order or presidential directive and shall immediately notify the committees of Congress having jurisdiction over matters relating to national intelligence activities of the fact that the Attorney General and the Intelligence Oversight Board have been notified pursuant to this section. .

(b) The Attorney General shall report, in a timely manner, to the President, the appropriate committees of the Congress, the Intelligence Oversight Board, and the Director any violation described in subsection (a).

(c) The Director shall regularly, but not less often than once each year, notify employees of the entities of the Intelligence Community of their duty to report to him or the Inspector General, the General Counsel or the head of the entity in which they are employed, any information on any past, present, or proposed activity of the entity which such employee believes to be a violation of the Constitution or laws of the United States, or of any executive order, or presidential directive, or rule or regulation of the entity.

(d) Nothing in this section shall prohibit any employee of any entity of the Intelligence Community from reporting any information described in subsection (a) directly to the Attorney General, the Intelligence Oversight Board, or to any committee of Congress having jurisdiction over matters relating to national intelligence activities.

#### RECORDS

Sec. 110. (a) The Director shall maintain a complete record of all legal authorities and published regulations and instructions affecting the national intelligence activities of the United States. A complete copy of such record shall be maintained in the Office of the Federal Register, National Archives and Records Service, General Services Administration, under conditions sufficient to protect the national security of the United States. The Director

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shall make copies of such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to national intelligence activities.

(b) The Director shall maintain a full and complete record regarding the national intelligence activities of the United States; and the head of each entity of the Intelligence Community shall maintain a full and complete record regarding the national intelligence activities of such entity. The Director shall make materials from such records available, upon request, to any committee of the Congress having jurisdiction over matters relating to national intelligence activities.

REQUIREMENTS RELATING TO APPROPRIATIONS FOR  
NATIONAL INTELLIGENCE ACTIVITIES

Sec. 111. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1977, for the purpose of carrying out any national intelligence activity unless such funds have been previously authorized for such activity by legislation enacted during the same fiscal year or the fiscal year immediately preceding the fiscal year for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution. The Congress and the President shall make available to the public information regarding funds appropriated and expended for intelligence activities of the United States to the extent required by Article I, section 9, clause 7, of the Constitution of the United States.

(b) Following the appropriation of funds for the national intelligence activities of the United States the heads of each entity of the Intelligence Community shall advise the Director of any proposed reprogramming of funds by or transfer of funds to, or from, such entity. The Director shall review each proposal and his approval shall be required for any such reprogramming or transfer.

(c) (1) The Director is authorized to establish a fund to be known as the Contingency Reserve Fund and to credit to such fund only monies specifically appropriated to the Director for such fund. The Director is authorized to expend funds from the

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Contingency Reserve Fund in any fiscal year for the payment of emergency and extraordinary expenses incurred in connection with any national intelligence activity if--

(A) the expenditure has been previously approved by the Office of Management and Budget;

(B) the appropriate committees of Congress have been notified at least 72 hours in advance of the initiation of any such expenditure; except that the President may authorize the expenditure of money from such fund without prior congressional notification if he notifies the appropriate committees of the Congress within 48 hours of the facts and circumstances of the activities for which funds have been or are to be expended, certifies to such committees that the delay involved in prior notification would have been harmful to the United States, and discloses to such committees the reasons why prior notification would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity.

(C) the money from such fund is used solely for the purpose of meeting emergency or extraordinary requirements that were not anticipated at the time the President's budget was submitted to the Congress for such fiscal year and require protection from unauthorized disclosure;

(2) The Contingency Reserve Fund may not be used for the initiation or major expansion of any activity until the required approvals and notifications have been complied with; and no financial obligation shall be incurred under authority of this subsection unless (A) such obligation has been approved by the Director and the Director of the Office of Management and Budget, and (B) sufficient money therefor is available in the Contingency Reserve Fund.

(3) Money of the Contingency Reserve Fund may be expended only for the specific purpose for which expenditure was approved under this subsection and any amount approved for expenditure but

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not actually expended for the specific purpose for which approved shall remain in such fund.

(4) Any activity funded from the Contingency Reserve Fund which continues after the end of the fiscal year in which such activity was initiated shall be funded thereafter through the regular budgetary process at the earliest practicable time.

(d) The Director may approve the expenditure of funds to cover matters relating to national intelligence activities of an extraordinary or emergency nature within amounts which have been appropriated to the Director specifically for such purpose. The expenditure of funds appropriated for such purpose shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but funds appropriated for such purpose may be expended only for activities authorized by law. The Director shall report quarterly to the committees of the Congress having jurisdiction over the national intelligence activities of the United States on expenditures made under the authority of this paragraph.

(e) All funds appropriated to the Director, other than those described in subsection (d), and all national intelligence activities, and information relating thereto, shall be subject to financial or management audit and review, subject to appropriate security standards, by the Comptroller General of the United States upon the request of any committee of the Congress having jurisdiction over matters relating to national intelligence activities, and information resulting from any such financial or management audit and review shall be available in the legislative branch only to such committees of the Congress except as provided under Sec. 119 of this title.

OPERATIONS COORDINATING COMMITTEE; RESTRICTIONS  
AND REQUIREMENTS REGARDING CERTAIN ACTIVITIES,  
PROJECTS, AND CHANGES

Sec. 112. (a) The President shall establish within the National Security Council a committee to be known as the Operations Coordinating Committee (hereinafter in this section referred to as the "Committee").

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(b) One member shall be appointed by the President, by and with the advice and consent of the Senate, to serve as chairman of the Committee. Such confirmation by the Senate shall not be required if the individual nominated by the President is serving in a post for which he has already received Senate confirmation.

(c)(1) It shall be the function of the Committee to consider any proposed special activity and any proposed exceptionally sensitive or sensitive clandestine collection project to be carried out by any entity of the Intelligence Community or by any foreign government or any agent of any foreign government for or on behalf of the United States, to consider any proposed significant change in any ongoing special activity or exceptionally sensitive or sensitive clandestine collection project, and to advise the President with respect to such proposed activity, project, or change, as the case may be. No proposed special activity, proposed exceptionally sensitive clandestine collection project, or significant change in any ongoing special activity or exceptionally sensitive clandestine collection project may be carried out unless the Committee has considered such activity, project, or change, advised the President thereon, and the President has approved such proposed activity, project, or change.

(2) It shall also be the function of the Committee to conduct a review at least annually of all ongoing special activities and exceptionally sensitive or sensitive clandestine collection projects being carried out by entities of the Intelligence Community or by any foreign government or any agent of any foreign government for or on behalf of the United States for the purpose of determining the necessity for continuing such activities and projects and making recommendations to the President regarding such activities and projects.

(d) No proposed special activity may be approved by the President unless he finds that--

(1) such proposed activity is essential to the national security of the United States;

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(2) such proposed activity is consistent with publicly enunciated foreign policy goals of the United States; and

(3) overt activity would be unlikely to accomplish the intended objective.

(e) No proposed exceptionally sensitive clandestine collection project may be approved by the President unless he finds that--

(1) the information to be obtained by the project is vital to the national security of the United States and the importance of the information outweighs the likely consequences of disclosure of the activity; and

(2) overt activity or sensitive clandestine collection activity would be unlikely to accomplish the objective.

(f) Whenever the Committee considers any proposal to engage in a new special activity or exceptionally sensitive or sensitive clandestine collection project or any proposal to make any significant change in an ongoing special activity or exceptionally sensitive or sensitive clandestine collection project, the Committee shall have available for review a careful and systematic analysis, including, but not limited to the following:

(1) the justification for such proposed activity, project, or change;

(2) the nature, scope, probable duration, purpose, anticipated risks, consequences of disclosure, probability of success, and estimated costs of such activity, project, or change;

(3) the relationship between the proposed activity, project, or change and any previously approved related activity or project;

(4) evidence that the objectives of such activity, project, or change would be unlikely to be achieved by overt or less sensitive means; and

(5) the legality of the proposed activity, project, or change under international law, the treaties, Constitution and laws of the United States, and the laws of the country in which such activity or project is to be carried out.

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(g) Any recommendation made by the Committee to the President must have been agreed to by the Committee members present in a formal meeting of the Committee. No meeting of the Committee may be held unless a majority of the members is present. Any recommendation made by the Committee to the President shall also be accompanied by an opinion of the Attorney General on the legal implications of the proposed activity, project, or change, as the case may be.

(h) No component of the Federal Government except an entity of the Intelligence Community may conduct any special activity; and no entity of the Intelligence Community except the Central Intelligence Agency may conduct any special activity unless (1) the Director determines that the objective of such special activity would be less likely to be achieved by the Central Intelligence Agency than by another designated entity of the Intelligence Community, and (2) the President approves the decision of the Director.

(i) The Director shall, prior to the implementation of any special activity or exceptionally sensitive or sensitive clandestine collection project or of any significant change in any ongoing special activity or exceptionally sensitive or sensitive clandestine collection project, notify the appropriate committees of the Congress of the facts and circumstances of the activity, project, or change, except that such activity, project, or change may be implemented without such prior notification if the President notifies the appropriate committees of the Congress within 48 hours after the initiation of such activity, project, or change, certifies to such committees that the delay involved in prior notification would have been harmful to the United States and discloses to such committees the reasons why prior notification would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity, project, or change. The Director shall specifically note for the appropriate committees of the Congress any case in which any special activity or any

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exceptionally sensitive or sensitive clandestine collection project involving the collection of intelligence by human sources is being conducted by an entity of the Intelligence Community other than the Central Intelligence Agency. The Director shall keep a written record of the time, manner, and content of any such notice and any official reaction or response of such committees to such notice.

(j) The Director shall submit a written report semiannually to the appropriate committees of the Congress on all special activities and exceptionally sensitive or sensitive clandestine collection projects being carried out by the various entities of the Intelligence Community of the United States or by any foreign government or agent of any foreign government for or on behalf of the United States.

(k) Nothing in this title shall be construed as amending, superseding, or otherwise modifying in any respect the provisions of section 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680a), relating to the authority and responsibility of United States Ambassadors to foreign countries, including, but not limited to, the provisions of such section which require any department or agency having officers or employees in a foreign country to keep the United States Ambassador to that country fully and currently informed with respect to all activities and operations of its officers and employees in that country and which require any such department or agency to insure that all of its officers and employees, except for personnel under the command of a United States area military commander, comply fully with all applicable directives of the United States Ambassador to such country. The head of each entity of the Intelligence Community shall also keep the United States Ambassador to any foreign country fully and currently informed with respect to any activity or operation of the officers and employees of such entity which will directly affect such foreign country.

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PROHIBITION AGAINST THE USE OF INDIVIDUALS WHO  
FOLLOW RELIGIOUS VOCATIONS, GOVERNMENT GRANTEES,  
AND JOURNALISTS FOR CERTAIN INTELLIGENCE ACTIVITIES

Sec. 113. (a) No entity of the Intelligence Community may--

(1) pay or provide other valuable consideration to  
any individual following a full-time religious vocation  
to--

(A) engage in any intelligence activity  
for or on behalf of the United States, or

(B) provide any intelligence information  
to any such entity;

(2) pay or provide other valuable consideration to  
any individual who is sponsored and supported by the United  
States as part of a foreign exchange program designed to  
promote education or the arts, humanities, or cultural  
affairs to--

(A) engage in any intelligence activity for  
or on behalf of the United States while such  
individual is:

(i) participating in any such program,  
and

(ii) traveling or temporarily residing  
in any foreign country;

(B) provide any intelligence information to  
any such entity if such information was acquired  
while such individual was:

(i) participating in any such program,  
and

(ii) traveling or temporarily residing  
in any foreign country;

(3) pay or provide other valuable consideration to  
any individual who--

(A) is a journalist accredited to any United  
States media organization,

(B) regularly contributes material to any  
United States media organization,

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(C) is regularly involved, directly or indirectly, in the editing of material for any United States media organization, or

(D) acts to set policy for, or provide direction to, any United States media organization; or

(4) pay for or otherwise knowingly support in any manner the distribution within the United States of any book, magazine, article, publication, film, or video or audio tape, unless such support is publicly announced.

(b) As used in this section, the term "United States media organization" means any organization publishing on a regular basis for public dissemination any newspaper, magazine, journal, or other periodical publication, any broadcast organization, or any organization producing films or video or audio tapes, if any part of such organization is owned by one or more nationals of the United States, the principal place of business of such organization is in the United States, and the principal distribution of such organization is in the United States.

PROHIBITION AGAINST THE USE OF NATIONALS OF THE  
UNITED STATES AS COMBATANTS IN FOREIGN  
COUNTRIES

Sec. 114. (a) No national of the United States who is not a member of the armed forces of the United States serving on active duty may be assigned by any entity of the Intelligence Community as a combatant in any foreign country unless the Operations Coordinating Committee has been notified of the proposed use, such Committee has reported to the President thereon, the President has approved such assignment, and the Director has notified the appropriate committees of the Congress of such proposed assignment.

(b) The President shall discontinue any such assignment in the case of any such national of the United States not later than 90 days after notice to such committees unless the continued assignment of such national as a combatant has been specifically authorized by law. The President shall promptly discontinue the

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assignment of any such national as a combatant in any foreign country if the Congress so directs by concurrent resolution.

(c) As used in this section, the term "combatant" means an individual who engages in armed conflict with a hostile force.

#### PROHIBITIONS ON PARTICULAR FORMS OF SPECIAL ACTIVITIES

Sec. 115. (a) No entity of the Intelligence Community may engage in or support any special activity which has as its objective--

- (1) terrorism;
- (2) the mass destruction of property;
- (3) creating food or water shortages or epidemics of diseases;
- (4) to attempt to overthrow the democratic government of any country;
- (5) the support of the police, foreign intelligence, or internal security forces of any country which systematically violate the human rights of the citizens of such country or of any other country.

(b) The Director shall formulate regulations necessary to effectuate the provisions of this section and submit such proposed regulations to the appropriate committees of the Congress. Such regulations, and any subsequent amendment thereto, shall become effective 60 days after the date on which such regulations or amendment, as the case may be, is submitted to such committees.

#### PROHIBITION ON ASSASSINATION

Sec. 116. (a) Whoever, while within the United States or the special maritime and territorial jurisdiction of the United States, conspires with any other person to kill any foreign official because of such official's political views, actions, or statements while such official is outside the United States and such jurisdiction, and one or more such persons do any overt act within the United States or such jurisdiction to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(b) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, conspires with any other such officer or employee or with any other person or persons to kill any foreign official, because of such official's political views, actions, or statements, while such official is outside the United States and such jurisdiction, and one or more such officers, employees, citizens or other persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or life.

(c) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, attempts to kill any foreign official, because of such official's political views, actions, or statements, while such official is outside the United States and such jurisdiction, shall be punished by imprisonment for any term of years or life.

(d) Whoever being an officer or employee of the United States, or a citizen of the United States, while outside the United States and the special maritime and territorial jurisdiction of the United States, kills any foreign official, because of such official's political views, actions, or statements, while such official is outside the United States and such jurisdiction, shall be punished as provided under sections \_\_\_\_ and \_\_\_\_ of this title, except that any such officer or employee or citizen who is found guilty of murder in the first degree shall be sentenced to imprisonment for life.

(e) As used in this section, the term--

(1) "officer or employee of the United States" means any officer or employee, whether elected or appointed, in the executive, legislative, or judicial branch of the Government of the United States (including the District of Columbia) and its territories and possessions, and includes any

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officer or member of the armed forces;

(2) "foreign official" means a Chief of State or the political equivalent, President, Vice President, Prime Minister, Premier, Foreign Minister, Ambassador, or other officer, employee, or agent of (A) a foreign government with which the United States is not at war pursuant to a declaration of war by the Congress or against which United States Armed Forces have not been introduced into hostilities or situations pursuant to the provisions of the War Powers Resolution; or (B) a foreign political group, party, military force, movement or other association with which the United States is not at war pursuant to a declaration of war by the Congress or against which United States Armed Forces have not been introduced into hostilities or situations pursuant to the provisions of the War Powers Resolution; or (C) an international organization;

(3) "foreign government" means the government of a foreign country, irrespective of official diplomatic recognition by the United States;

(4) "international organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunity Act (22 USC 288);

(5) "citizen of the United States" means, in addition to a United States citizen, any national of the United States, and any person who has been and is classified as an alien admitted to the United States as a permanent resident under the laws of the United States.

COUNTERINTELLIGENCE COMMITTEE; RESTRICTIONS  
AND REQUIREMENTS REGARDING COUNTER-  
INTELLIGENCE ACTIVITIES

Sec. 117. (a) The President shall establish in the National Security Council a committee to be known as the Counterintelligence Committee (hereinafter in this section referred to as the "Committee"). The Attorney General shall serve as Chairman of the Committee.

(b) It shall be the function of the Committee to advise and assist the President in the formulation of policy and objectives for

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the counterintelligence activities of the United States, to assure unified direction of such activities, and to assure that the counterintelligence activities of the United States are conducted in a manner that does not violate any right guaranteed or protected by the Constitution or laws of the United States.

(c) It shall also be the function of the Committee to--

(1) establish policy guidelines for the counterintelligence activities of the United States;

(2) establish uniform standards and doctrines for the counterintelligence activities of the United States;

(3) direct the coordination of the counterintelligence activities of the United States and to adjudicate disagreements among the entities of the Intelligence Community on matters relating to the counterintelligence activities of the United States; and

(4) assess the threats posed to the United States and its interests by foreign intelligence and security services and the effectiveness of the United States' response to such threats.

The Director shall submit a written report annually to the appropriate committees of the Congress on the matters contained in clauses (1) through (4) of this subsection.

(d) It shall also be the function of the Committee to (1) review proposals for initiation, significant change, or termination of any counterintelligence activity of the United States which would be likely to cause serious damage to the United States, and (2) make recommendations to the President with respect to any such activity which would be likely to cause exceptionally grave damage to the United States. Any such recommendations to the President shall be accompanied by an opinion of the Attorney General on the legal implications of such activities. No proposal for the initiation, significant change, or termination of any counterintelligence activity which would be likely to cause exceptionally grave damage to the United States may be implemented without the approval of the President.

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(e) The Director shall notify the appropriate committees of the Congress prior to the implementation of any counter-intelligence activity described in subsection (d) of the facts and circumstances of the activity, but any such activity may be implemented without prior notification to the appropriate committees of the Congress if the President notifies such committees within 48 hours after the initiation of the activity and certifies to such committees that the delay in prior notification would have been harmful to the United States and discloses to such committees the reasons why prior notification would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such activity.

(f) The Director shall submit a written report semiannually to the appropriate committees of the Congress on those counter-intelligence activities described in subsection (d) which have been approved by the President during the previous six-month period.

(g) The Director shall also report annually to the appropriate committees of the Congress certifying that the counter-intelligence activities of the United States have been conducted so as not to violate any right guaranteed or protected by the Constitution or laws of the United States except for those activities he has reason to believe were not so conducted and identifies such activities for such committees.

#### INTELLIGENCE OVERSIGHT BOARD

Sec. 118. (a) The President shall establish in the Executive Office of the President a board to be known as the Intelligence Oversight Board (hereinafter in this section referred to as the "Oversight Board").

(b) The Oversight Board shall have three members who shall be appointed by the President by and with the advice and consent of the Senate, be from outside the Government, and be qualified on the basis of ability, knowledge, diversity of background and experience. No member of the Oversight Board shall have any

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contractual relationship with any entity of the Intelligence Community.

(c) One member of the Oversight Board shall be designated by the President as its Chairman.

(d) It shall be the function of the Oversight Board to--

(1) receive and consider reports by inspectors general, general counsels, and the heads of the entities of the Intelligence Community concerning activities of such entities that come to their attention that raise questions of legality or propriety and their findings concerning such activities;

(2) receive and consider notifications by inspectors general and general counsels of the entities of the Intelligence Community who shall report to the Oversight Board on any occasion when they are directed by the heads of their respective entities not to report any activity to the Oversight Board pursuant to (1) above;

(3) inquire into any activity of any entity of the Intelligence Community which the Oversight Board believes raises questions of legality or propriety;

(4) review periodically the practices and procedures of the inspectors general and general counsels of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety;

(5) review periodically with each entity of the Intelligence Community the internal guidelines of such entity to insure adequacy of such guidelines in discovering and reporting activities that raise questions of legality or propriety;

(6) report periodically, at least quarterly, to the President, Attorney General, and the Director on its findings;

(7) report in a timely manner to the President, the Attorney General and the Director any activity with respect to which there is a serious question regarding its legality; and

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(8) report in a timely manner to the President and to the Director any activity with respect to which there is a serious question regarding the propriety of such activity.

(e) The Oversight Board is authorized to employ such personnel as may be necessary to assist in carrying out its functions under this Act. No person who serves on the staff of the Oversight Board shall have any contractual or employment relationship with any entity of the Intelligence Community.

(f) The Oversight Board shall, upon request, be given access to all relevant information and material in the possession, custody and control of the entities of the Intelligence Community in order to carry out its functions under this Act.

#### CONGRESSIONAL COMMITTEE REPORTS

Sec. 119. (a) The committees of the Senate and the House of Representatives having jurisdiction over matters relating to the national intelligence activities shall make regular periodic reports to their respective Houses on the nature and extent of the national intelligence activities of the United States. Such committees shall promptly call to the attention of their respective Houses, or to any other appropriate committee or committees of their respective Houses, any matter relating to intelligence activities which requires or should have the attention of such House or other committee or committees. In making such report, the committees of the Senate and the House of Representatives having jurisdiction over matters relating to national intelligence activities shall do so in a manner consistent with the protection of the national security interests of the United States.

(b) The provisions of subsection (a) are enacted by the Congress--

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

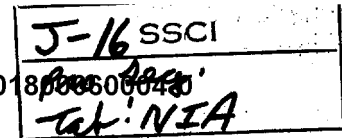
ANNUAL REPORT OF THE DIRECTOR

Sec. 120. (a) The Director shall prepare and submit to the committees of the Senate and the House of Representatives having jurisdiction over matters relating to national intelligence activities an annual report in which the activities of the various entities of the Intelligence Community and the intelligence activities of foreign countries directed at the United States or its interests are reviewed and discussed by the Director.

(b) The Director shall make available to the public an unclassified annual report on the activities of the entities of the Intelligence Community and the intelligence activities of foreign countries directed against the United States or its interests. Nothing in this subsection shall be construed as requiring the public disclosure, in any such report made available to the public, of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence sources or methods employed.

Sec. 121. The analysis of chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"\_\_\_\_\_. Conspiracy to assassinate a foreign official outside United States; attempted assassination of a foreign official outside United States; assassination of a foreign official outside United States".



Addendum to Journal - Office of Legislative Counsel  
Thursday - 16 June 1977

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15. (Unclassified - GLC) LIAISON Talked with Chairman Daniel Inouye (D., Hawaii), Senate Select Committee on Intelligence, regarding his talk with Agency personnel in the Auditorium tomorrow. I told the Chairman that one of us would be picking him up at approximately 2:15 p.m.

16. (Internal Use Only - GLC) LIAISON Accompanied Dr. Robert Bowie, D/DCI/NIO, to courtesy calls on Senators Robert Morgan (D., N. Car.), Birch Bayh (D., Ind.) and Walter Huddleston (D., Ky.). Among other things, Senator Morgan said he thought Dr. Bowie was on the right track on his tentative thoughts about the NIO's and he also indicated that he thought it would be some time before the Committee would be in a position to take action on the subject of intelligence agency charters. Senator Morgan also talked about his Subcommittee on Special Investigations, Senate Select Committee on Intelligence, and the appointment of Don Sanders, formerly of the Department of Defense. I told Senator Morgan that I had known Sanders for a number of years and while jokingly saying that he might give us a bad time on occasion, I thought he was a good choice to be Staff Director of the Subcommittee. The Senator commented that he was resisting some pressure to have a large staff. He said he wanted to keep the staff small and to keep his inquiries limited to those matters which indeed required a look-see and not to be conducting witch hunts.

Our meeting with Senator Bayh was quite short in view of a Senate vote, but we talked briefly with the Senator and John Elliff, Senate Select Committee staff, sat in on the session.

The meeting with Senator Huddleston was longer and more substance was covered. As in the case of our meeting with Senator Morgan, Senator Huddleston responded favorably to Dr. Bowie's statement of his tentative thoughts about the NIO's and he also indicated that as Chairman of the Subcommittee on Charters and Guidelines, Senate Select Committee on Intelligence, as far as he was concerned, the subject was wide open to possibilities and mixes of Executive order and statute although he made it clear that the Committee is definitely moving in the direction of statutory charters. He stressed, however, that nothing was set in concrete and he was looking forward to meetings with the Executive Branch once the PRM-11 exercise is completed.

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AFTER MEETING WITH CONGRESSIONAL LEADERS

The American people have a right to know where the government stands on critical issues affecting the role of intelligence activities in our free society. They should know that this Administration believes that properly controlled and lawful intelligence is essential for the security of this country. They should also know that the Administration has concluded that there is a strong need for legislative authority including statutory charters to govern the operations of the intelligence agencies.

The President met this morning with Senator Inouye and members of the Senate Select Committee on Intelligence to discuss both the need for legislation and the comprehensive review of intelligence activities now under way in both the Senate and the Executive Branch. He has also discussed these matters with Speaker Tip O'Neill and other members of the House.

It is agreed that the old, vague, and overly broad notions of inherent authority operating outside of or above the law have not been consistent with our constitutional values or with the need for focused, controlled, effective, and lawful intelligence. The Administration endorses the view that the time has come to enact clear legislation, applicable to all of the intelligence agencies, which states what they may do and what they may not do. At the same time, it is agreed that while legislation must lay out the necessary standards and

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controls, it is important that it not be so detailed on organizational and

administrative matters as to hamper the flexibility and effectiveness of the agencies in performing lawful and properly controlled assignments.

It was also agreed that both the Executive Branch and both Houses of the Legislative Branch should devote careful attention to ensuring that they are organized as effectively and responsibly as possible to carry out their respective responsibilities.

The Select Committee and the Administration plan to complete their respective studies of intelligence activities by the end of June. Once these studies are completed, we will begin a period of active and intense consultation which we hope will lead, by the Fall, to both sound and effective legislation from the Congress and Executive Branch decisions which will complement the legislative mandate.

104-1318

INTELLIGENCE CHARTERS

PROS AND CONS OF NEW LEGISLATION

16 MAY 1977

1. What are the problems that can be solved by new legislation?

A new charter could:

- Strengthen the position of the DCI and improve management of the Intelligence Community.
- Impose further "accountability" on intelligence agencies by specifically authorizing and proscribing certain kinds of activities and by setting forth procedures for conduct of activities.

2. What are the merits of the existing statutory charter?

Existing law has two positive features:

- Provides all necessary authorities to conduct the foreign intelligence program.
- It is exceedingly flexible and provides a broad statutory framework within which various structures and programs can evolve.
- Most of the restructuring that has been proposed could be accomplished within the framework of the 1947 Act
  - DCI's position could be strengthened
  - NSA and other elements of the Intelligence Community could be brought under the direct control of the DCI

- Fiscal mechanisms and controls of CIA provide the "plumbing and heating" necessary
- Present internal CIA Directorates could be abolished and new ones (Collection, Production, Operations, Management, etc.) could be established.
- Intelligence Community function could be expanded and "second deputy" legislation enacted as amendment to 1947 Act

New legislation is not necessary to make intelligence agencies accountable. This could be done within the framework of existing law through amendment and/or the use of Executive Order.

3. What are the hazards of seeking new legislation?

Much could be lost once intelligence statutes are opened up for amendment on the floor of Congress. There is no way to insure the ultimate content of a bill once the process is set in motion. A new charter could be distorted by ill-conceived amendments which cut deeply into existing authorities and impair existing Presidential flexibility.

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13 May 1977

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MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Sam Hoskinson, National Security  
Council Staff

1. Sam Hoskinson, NSC staff, called and gave me a brief rundown on the President's meeting with the members of the Senate Select Committee on Intelligence at the White House this morning.

2. Mr. Hoskinson said that on the subject of an open intelligence budget, the President held to the position taken by Admiral Turner in the open budget hearings before the Select Committee, which was that the Administration would not release the figure but if the Select Committee was interested in pursuing this matter with the full Senate, the Administration would not object to the release of one figure for all U.S. intelligence activities. The President strongly opposed any further breakout of intelligence budget data.

3. The President also expressed a view that the Select Committee should have consulted him earlier regarding the [redacted] statement which it ultimately made public and inferred that he would hope that the Committee would not resort to the [redacted]

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4. On the subject of charters, the President indicated generally that once the PRM-11 exercise is completed, he would be willing to work with the Committee on the subject of intelligence charters but took the position that these charters should not go into great detail. This matter is being handled in the Executive Branch he said by the Vice President and Admiral Turner. In this connection, Senator Walter Huddleston (D., Ky.) expressed support for a strong DCI with line and resource control and the President seemed to agree with that position.

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5. Mr. Hoskinson also mentioned that Senator Birch Bayh (D., Ind.) indicated that he was very happy with the electronic surveillance bill which has been worked in the Executive Branch. Senator Barry Goldwater (R., Ariz.) expressed a view that the Administration was reporting in too great detail to the Select Committee on covert activities.

6. According to Mr. Hoskinson, at the end of the meeting, the President had great praise for CIA saying that it was doing a superb job and that its work was better than he had ever dreamed it would be. He also gave a strong endorsement of Admiral Turner.

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GEORGE L. CARY  
Legislative Counsel

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THE WHITE HOUSE  
WASHINGTON

*Barnes*

*p no leg:*  
*NIA*

Date: 5/4/77

SSCI
77-0481/5

MEMORANDUM FOR: FRANK MOORE

\*\*\*\*

FROM:

TIM KRAFT *[Signature]*

SUBJECT:

Approved Presidential Activity

Please take the necessary steps to implement the following and confirm with Mrs. Nell Yates, ext. 2699. The appropriate briefing paper should be submitted to Rick Hutcheson by 4:00 p.m. of preceding day.

Meeting: with Senate Select Committee on Intelligence and Senator Robt. Byrd.

Date: Fri., May 13

Time: 10:00 a.m. Duration: 45 mins.

Location: Cabinet Room, if weather permits previous ceremony (bill signing) in Rose Garden; otherwise, State Dining Room.

Press Coverage: To be coordinated with Press Office.

Purpose: To discuss development of intelligence legislation.

\*\*\*\* To be coordinated with Bill Smith of the Vice President's Office and NSC.

CC: Tim Smith  
Nell Yates  
Rick Hutcheson  
Hamilton Jordan  
Jody Powell  
Rex Granum  
Dr. Brzezinski  
Bob Russell  
Dan Tate  
Rick Inderfurth

Admiral Turner  
Penny Miller  
Jane Fenderson  
Fran Voorde  
Helen Donaldson  
Jack Watson  
Stuart Eizenstat

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**EXECUTIVE SECRETARIAT****Routing Slip**

Executive Registry

77-7547

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC		X		
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21			X		
22					
SUSPENSE		Date			

Remarks: Note planned Presidential meetings with Congressional leaders to discuss intelligence legislation. Briefing paper due 1600 preceding day so any input we wish to make must be made in advance of that.

13/ Executive Secretary

7 May 77  
Date

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Next 1 Page(s) In Document Exempt

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SUMMARY OF 25 APRIL 1977 SENATE SELECT  
COMMITTEE ON INTELLIGENCE DRAFT BILL,  
"INTELLIGENCE REORGANIZATION ACT OF 1977"

Sec. 102 - Statement of Purposes

- (1) Insure direction of intelligence activities.
- (2) Establish Director of National Intelligence, define his responsibilities and confer authorities.
- (3) Insure that necessary information provided to Executive and Legislative.
- (4) Protect individual rights.

Sec. 103 - Definitions

--Intelligence Community - adds intelligence components of Drug Enforcement Administration to E.O. 11905 definition.

--Intelligence Activities - all informational activities, special activities, counterintelligence activities.

--National Intelligence - information and analysis used primarily in formulation and direction of national policy.

--National Intelligence Activity - activity of members of Intelligence Activity or other activities the President so designates.

--Intelligence-Related Activities - includes training and research and development.

--Counterintelligence Activities - all phases of information process and Government activities to counter foreign intelligence activities plus any support activity.

--Special Activities - non-information related activities which (A) further U.S. policies and programs abroad, (B) planned and executed so U.S. support not acknowledged and (C) carried out by member of Intelligence Community.

--Sensitive Clandestine Collection Project - Secret Intelligence Collection Activity which if revealed would cause significant harm or embarrassment to U.S. or a U.S. national not connected with the Intelligence Community.

--Exceptionally Sensitive Clandestine Collection Project - Any secret intelligence collection activity which if revealed or discovered would be likely to cause serious harm to the U.S.

--National of U.S. - a citizen or a non-citizen who owes permanent allegiance to the U.S.

--Committees of Congress - any committee.

#### Sec. 104 - Authorization of Activities

Entities of the Intelligence Community can engage in national intelligence activities subject to direction of the National Security Council. Functions of such entities are to provide information to Executive and Legislative branches and to engage in special and counterintelligence activities.

#### Sec. 105 - Director and Deputy Director

Creates a Director and Deputy Director of National Intelligence. Appointed for six-year terms, with advice and consent of the Senate, and may not serve more than 12 years. Both posts cannot be filled simultaneously by active or retired commissioned officers. The Director shall be paid at rate of Level I of Executive Schedule.

#### Sec. 106 - Authority and Duties of the Director

The Director:

--Shall be responsible for all national intelligence activities. This includes coordinating, reviewing, evaluating, producing, establishing requirements and plans for all national intelligence activities.

--Serves as the President's primary advisor on national intelligence.

--Reports to and keeps the President and appropriate congressional committees fully and currently informed of all ongoing and proposed national intelligence activities.

--Shall insure that ongoing and proposed intelligence activities do not adversely affect the national security, defense and foreign relations of the U.S. and that they do not abridge the Constitution and laws of the U.S.

--Controls budget activities of the Intelligence Community, including the preparation of the annual budget. Provides budget report to appropriate congressional committees.

--Produces NIE's and SNIE's.

--Coordinates all clandestine collection of intelligence, including human sources.

--Develops security standards for the management and protection of intelligence information and material.

--Can terminate the employment of any officer in CIA, NSA, or Special Offices for Reconnaissance if in the interests of the United States.

--Reviews the IG reports from the Intelligence Community entities.

--Shall be responsible for all relationships between Intelligence Community entities and foreign intelligence or internal security services.

--Shall be responsible for security of U.S. communications.

--Coordinate activities to protect U.S. against foreign intelligence activities, terrorism, and international narcotics traffic.

#### Sec. 107

Directs all national intelligence obtained by departmental and agency heads be promptly furnished to Director or to Intelligence Community entity designated by him to receive such information.

#### Sec. 108

--Provides for not more than four Assistant Directors of National Intelligence.

--Grants Director authority to establish such committees or boards as he deems necessary to carry out provisions of Act.

Sec. 109

Provides procedures for reporting improper or illegal intelligence activities by the Director to the Attorney General, the Intelligence Oversight Board, the President and appropriate congressional committees.

Sec. 110

--Charges Director to maintain complete record of all legal authorities and published regulations and instructions affecting national intelligence activities of the U.S.

--Complete copy must be maintained in the Office of the Federal Register, National Archives and Records Services, and General Services Administration.

--Must make copies available upon requests by Congress.

Sec. 111 - Appropriations

--No funds may be appropriated after FY 77 for any national intelligence activity unless authorized by legislation during the same or prior FY. There is an exception for funds appropriated under a continuing resolution. Public disclosure by the Congress and the President of funds appropriated and expended for intelligence activities is mandated to the extent required by the Constitution.

--The Director shall be informed of and approve any proposed reprogramming of funds by any Intelligence Community component.

--The Director may expend unvouchered funds for "extraordinary or emergency" national intelligence activities as are "authorized by law." The Director must report quarterly to the oversight committees on all such expenditures.

--At the request of any congressional oversight committee, the Comptroller General shall audit and review all appropriations and intelligence activities except those carried out under the unvouchered funds authority.

--A specifically appropriated contingency reserve is allowed to be utilized only for unforeseen expenses as approved by OMB and only after 72 hours prior notification to the appropriate committees. An exception to the prior notification requirement is made for activities certified by the President to the committees within 48 hours of the initiation of such activities, certifying that the prior notification would be harmful to the U.S.

--The Operations Coordinating Committee is formed in the National Security Council with a Chairman to be named by the President.

--The Committee shall consider any "special," "exceptionally sensitive," or "sensitive" intelligence activity by any component of the Intelligence Community or by any foreign government or service for or on behalf of the U.S. Significant changes to these activities also would be reviewed. No such activity would be allowed unless the Committee considers it and advises the President thereon.

--The Committee shall review at least annually all ongoing sensitive projects.

--Proposed "special" activities may be approved by the President only if "essential to the national security," consistent with "publicly expressed and defined foreign policy goals," and if overt activity would not likely accomplish the intended objective.

--Similar limitations apply to "exceptionally sensitive clandestine collection" activities.

--All factors relating to sensitive or special activities shall be available to the Committee for its review. The Committee must meet and report formally on all matters within its responsibility, and an opinion by the Attorney General is required on each recommendation made by the Committee.

--Only entities of the Intelligence Community may conduct special activities, and the CIA must conduct all special activities unless the Director (subject to Presidential approval) determines the CIA is less likely to achieve the result(s) of such special activities than another entity of the Intelligence Community.

--Prior notification by the Director to the appropriate committees of Congress as regards all special or exceptionally sensitive activities is required. This applies also to significant changes in ongoing activities. The only exceptions to the prior notification requirement are those activities as to which the President certifies the notification would harm the U.S. The details of such "excepted" activities shall be given to the committees within 48 hours of their initiation. The Director shall keep records of all notices and responses to notifications (which are required) to the committees whenever an activity is conducted by an entity of the Intelligence Community other than the CIA.

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--The appropriate committees as to all special and sensitive activities being conducted by the U.S. or by a foreign government or agent on behalf of or for the U.S.

--The U.S. Ambassador shall, under 22 U.S.C. 2680(a), be kept informed as to all special or sensitive activities relating to the country which he is assigned.

#### Sec. 113 -- Counterintelligence

Establish Counterintelligence Committee in National Security Council to assist President with CI policy. The Committee shall supervise CI. It shall review all proposals for initiation, change or termination of CI activity which may have a significant impact on national security or rights guaranteed under the Constitution. No such proposal shall be implemented without the approval of the President. The Director shall notify the appropriate committees of Congress prior to implementation of such CI activities.

#### Sec. 114 - Executive Branch Oversight

Establish an Intelligence Oversight Board (IOB) in Executive Office of President consisting of three members. Board shall receive reports from IG's, GC's, and agency heads regarding questionable activities and report on same to Attorney General and President.

#### Sec. 115 - Prohibition on Use of Journalists, Clergy, Government Grantees

No entity in Intelligence Community may pay an individual following a religious vocation; an individual receiving Government funds for educational, arts or humanities affairs; or an individual serving as U.S. journalist for engaging in any intelligence activity.

#### Sec. 116 - Prohibition on Use of U.S. Nationals as Combatants

No national of the U.S. who is not a member of the armed forces may be assigned as a combatant in any foreign country unless President approves such assignment and such assignment is specifically authorized by law within 90 days of the assignment.

#### Sec. 117 - (Provisions to be inserted later)

Sec. 118 - Annual Review and Report

Establishes a National Intelligence Activities Review Board consisting of nine members selected by the President to conduct periodic comprehensive reviews and evaluations of national intelligence activities. The Board is authorized to have access to all information and material in the custody of the Intelligence Community.

Sec. 119 - Congressional Committee Reports

The committees of the Senate and the House having jurisdiction over matters relating to national intelligence activities shall make regular periodic reports to their respective Houses on the nature and extent of national intelligence activities.

Sec. 120 - Annual Report of Director

The Director shall submit to the Congress an annual report in which Intelligence Community activities and foreign country intelligence activities are reviewed and discussed. The Director shall also make an unclassified report on these matters available to the public.